

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Velocity The Greatest Phone Company
Ever, Inc. for a Certificate of Public Convenience and
Necessity for Authority to Operate as a Reseller of
Local Exchange and Interexchange
Telecommunications Services, and for Alternative
Regulation

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 380 - C

(Please type or print)

Submitted by: Sue-Ann G. Shannon, Esquire

SC Bar Number: 71181

Address: McNair Law Firm, P. A.

Telephone: 803-799-9800

P. O. Box 11390

Fax: 803-753-3219

Columbia, SC 29211

Other:

Email: sshannon@mcnair.net

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)

- ☐ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☒ Telecommunications
☐ Transportation
☐ Water
☐ Water/Sewer
☐ Administrative Matter
☐ Other:

NATURE OF ACTION (Check all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request |
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer | <input type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement |
| <input type="checkbox"/> Application | <input type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment |
| <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response |
| <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery |
| <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation |
| <input type="checkbox"/> Discovery | <input checked="" type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena |
| <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff |
| <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | |
| <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | |

Print Form

Reset Form

MCNAIR
ATTORNEYS

Sue-Ann G. Shannon

November 19, 2009

sshannon@mcnair.net

T (803) 799-9800

F (803) 753-3219

Charles L. A. Terreni
Chief Clerk and Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Suite 100
Columbia, South Carolina 29210

RE: Application of Velocity The Greatest Phone Company
Ever, Inc. for a Certificate of Public Convenience and
Necessity for Authority to Operate as a Reseller of
Local Exchange and Interexchange Telecommunications
Services, and for Alternative Regulation
Docket No. 2009-380-C

Dear Mr. Terreni:

Enclosed for filing on behalf of Home Telephone Company, Inc., please
find the Direct Testimony of Denny V. Thompson in the above-referenced
docket. By copy of this letter and Certificate of Service, a copy is being served
on all parties of record.

Thank you for your assistance.

Sincerely,

MCNAIR LAW FIRM, P.A.


Sue-Ann G. Shannon

McNair Law Firm, P. A.
The Tower at 1301 Gervais
1301 Gervais Street, 11th Floor
Columbia, SC 29201

Mailing Address
P.O. Box 11390
Columbia, SC 29211

mcnair.net

SGS:rwm
Enclosures

cc: Parties of Record

BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2009-380-C

Application of Velocity The Greatest Phone)
Company Ever, Inc. for a Certificate of Public)
Convenience and Necessity for Authority to)
Operate as a Reseller of Local Exchange and)
Interexchange Telecommunications Services,)
and for Alternative Regulation)

DIRECT TESTIMONY OF DENNY V. THOMPSON

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 **A.**My name is Denny V. Thompson. My business address is 579 Stoney Landing
3 Road, Moncks Corner, South Carolina 29461.

4
5 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

6 **A.**I am employed by Home Telephone Company, Inc. ("Home Telephone") as the
7 Director of Administrative Services.

8
9 **Q. PLEASE BRIEFLY OUTLINE YOUR EDUCATION, TRAINING, AND**
10 **EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.**

11 **A.**I earned a Bachelor of Science in Accounting from Charleston Southern
12 University. I began my telecommunications career at Home Telephone in June
13 of 1989 performing cost and general accounting. I have also previously worked

1 as the Company's CABS (Carrier Access Billing System) Coordinator, as well as
2 its Personnel Director. I have held the Director of Administrative Services
3 position since April 2006, and my primary responsibilities include overseeing
4 accounting, human resources, data processing, and regulatory activities.
5

6 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING TODAY?**

7 **A.** I am appearing on behalf of Home Telecom, Inc., and Home Telephone
8 Company, Inc. (collectively referred to herein as "Home").
9

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY BEFORE THIS**
11 **COMMISSION?**

12 **A.** The purpose of my testimony is to present Home's position with respect to the
13 use of Applicant's corporate name in its request to provide interexchange and
14 local exchange telecommunications services throughout the State of South
15 Carolina. Home believes granting the Application would have an adverse impact
16 on the public interest and the Application should, therefore, be denied.
17

18 **Q. WHAT IS HOME'S POSITION IN THIS MATTER AND WHY DOES IT OPPOSE**
19 **THE APPLICATION?**

20 **A.** Velocity The Greatest Phone Company Ever, Inc., has asked the Commission to
21 grant it a Certificate of Public Convenience and Necessity to provide
22 interexchange and local exchange telecommunications services throughout the
23 State of South Carolina. Home Telephone Company, Inc., is an incumbent local

1 exchange carrier and a rural telephone company operating in its designated
2 service area in South Carolina, which is located in parts of Berkeley and
3 Dorchester Counties. Home Telecom, Inc., is an affiliate of Home Telephone
4 Company, Inc., and is authorized to provide interexchange and competitive local
5 exchange services in South Carolina.

6
7 Home currently offers a service product known as "Velocity"¹ in certain areas
8 served by Home Telephone Company, Inc., and Home Telecom, Inc. Allowing
9 Velocity to operate in areas presently served by Home and to provide services
10 similar to those currently being offered by Home would result in a likelihood of
11 confusion for customers or prospective customers. The two names or marks are
12 confusingly similar and the great likelihood of confusion would not be in the
13 public's interest.

14
15 **Q. WHAT IS THE BASIS FOR HOME'S POSITION THAT APPLICANT'S NAME**
16 **AND HOME'S SERVICE MARK ARE CONFUSINGLY SIMILAR AND THAT**
17 **GRANTING THE APPLICATION WOULD NOT, THEREFORE, BE IN THE**
18 **PUBLIC'S INTEREST?**

19 **A.** In making a determination whether to grant authority to provide
20 telecommunications services, Section 58-9-280(B) of the South Carolina Code of
21 Laws requires, in part, that the proposed service "not otherwise adversely impact
22 the public interest." S.C. Code Ann. § 58-9-280(B)(5) (Supp. 2008). Granting

¹ Home's product service mark is known as "Velocity," and includes a tagline that reads, "Keeping Homes Ahead of Their Time."

1 the Application of "Velocity The Greatest Phone Company Ever" will likely lead to
2 customer confusion between Velocity The Greatest Phone Company Ever and
3 Home's Velocity service product. Moreover, the name, "Velocity The Greatest
4 Phone Company Ever," will likely misrepresent the nature, characteristics,
5 quality, or origin of services between Velocity The Greatest Phone Company
6 Ever and Home's Velocity service product.

7
8 Home has been actively using the name, "Velocity," in certain areas of the State
9 since February 2009. Home has expended considerable resources in marketing
10 its Velocity product in the respective service areas, including but not limited to,
11 direct mail marketing, bill inserts, billboards, and using the Velocity logo on
12 company vehicles. Examples of bill inserts and other marketing information
13 displaying the Velocity service mark are included at Exhibit A, which is attached
14 to this testimony.

15
16 It would be contrary to the public interest for this Commission to certify a carrier
17 to provide telecommunications services in South Carolina if the carrier has a
18 name that is likely to cause customer confusion and misrepresent the nature,
19 characteristics, quality, or origin of services in connection with services already
20 being offered in South Carolina by other certificated carriers.

21
22 **Q. HAS HOME TAKEN STEPS TO PROTECT ANY INTEREST OR RIGHTS IT**
23 **MAY HAVE IN ITS SERVICE MARK?**

1 **A.** Yes. I understand it is not necessary to register a service mark in order to assert
2 a legal interest in the mark. However, in addition to actually using the service
3 mark, Home has taken the extra step of filing an Application for Registration of a
4 Service Mark with the Office of the South Carolina Secretary of State. A copy of
5 that Application, as filed, is attached hereto as Exhibit A. Issuance of the
6 Certificate of Registration by the South Carolina Secretary of State is pending,
7 but a search of the Secretary of State records for the term, "Velocity," found no
8 previously-filed request for a trademark or service mark for use in South
9 Carolina. As mentioned above, Home has been actively and continuously using
10 the service mark since February of this year. It does not appear that Velocity
11 The Greatest Phone Company Ever has marketed or otherwise held itself out as
12 a telecommunications services provider in South Carolina, and its Application for
13 service was only filed with this Commission on September 8, 2009.

14
15 **Q. HAS A STIPULATION BEEN ENTERED INTO IN THIS PROCEEDING?**

16 **A.** Yes. Velocity has entered into a stipulation with the South Carolina Telephone
17 Coalition, of which Home Telephone Company, Inc., is a member, whereby
18 Velocity agrees, in part, that it will not provide any local service to a customer in a
19 rural incumbent local exchange carrier's service area, unless and until it satisfies
20 certain conditions. Nevertheless, Home Telecom is authorized to provide
21 services in AT&T's service area, which appears to overlap the proposed service
22 area of Velocity The Greatest Phone Company Ever.

1 **Q. IS THERE ANYTHING YOU WOULD LIKE TO ADD TO YOUR TESTIMONY?**

2 **A.** Home is very concerned about the impact this filing could have on customers
3 within our service areas. Approval of the Application of Velocity The Greatest
4 Phone Company Ever will very likely have adverse consequence to customers
5 because of the significant risk that a local exchange and interexchange services
6 carrier using the name Velocity is likely to be confused by the public as being
7 related to Home's Velocity service mark.

8

9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 **A.** Yes, it does.

MCNAIR
ATTORNEYS

November 2, 2009

Douglas W. Kim

dkim@mcnair.net
T (864) 271-4940
F (864) 271-4015

Office of the Secretary of State
Attn: Trademarks Division
P.O. Box 11350
Columbia, SC 29211

Re: SC State Service Mark Application for Registration
Mark: VELOCITY Keeping Homes Ahead of Their Time
Applicant: Home Telephone Company, Inc.
Our Ref: 005423.00002


Dear Sir:

Enclosed for filing, please find an Application for Registration of a Service Mark for "VELOCITY Keeping Homes Ahead of Their Time". Also enclosed are three (3) identical specimens of the mark and our firm check No. 18197 in the amount of \$15 in payment of the filing fee.

Please send the Certificate of Registration to my attention at P.O. Box 447, Greenville, SC 29602.

With kindest regards,

McNAIR LAW FIRM, P.A.



Douglas W. Kim

DWK:df
Enclosures

McNair Law Firm, P. A.
Poinsett Plaza, Suite 700
104 South Main Street
Greenville, SC 29601

Mailing Address
P.O. Box 447
Greenville, SC 29602


mcnair.net

STATE OF SOUTH CAROLINA
APPLICATION FOR REGISTRATION
OF A TRADEMARK OR SERVICE MARK

Original: \$15 per mark, per class
Renewal: \$5
Assignment: \$3

Check one:
☐ Trademark or ☒ Service Mark

1. Name of Applicant: Home Telephone Company, Inc.
2. Applicant's principal place of business address: 579 Stoney Landing Road
Moncks Corner, South Carolina 29461
3. Applicant's place of business address in South Carolina, if any: 579 Stoney Landing Road
Moncks Corner, South Carolina 29461
4. Applicant is:
☐ an individual or sole proprietor
☒ a corporation duly organized under the laws of the State of South Carolina
☐ a partnership duly organized under the laws of the State of _____
Names of General Partners: _____
☐ a Limited Liability Company duly organized under the laws of the State of _____
☐ other _____
5. Describe the mark, including any literal and/or design elements if claimed:


VELOCITY
Keeping Homes Ahead of Their Time
6. The actual goods or services in connection with which the mark is used (i.e., shoe laces, cat food, heating repair services, baby-sitting services, etc.): Telecommunication Services including:
telephone, internet access, cable television, wireless communications and security services
7. The mode or manner in which the mark is used (i.e., labels, advertisements, brochures, etc.): _____
In the marketing and distribution of the services
8. The class(es) in which the goods or services fall (see attached): _____
39-15-1150(C)(4)

9. The mark, with respect to the goods or services identified above, was first used by applicant or predecessor in interest as follows (include month, day, and year):

Date of first use anywhere: Feb. 28, 2009 Date of first use in South Carolina: Feb 28, 2009

10. Has the applicant, or any predecessor in interest, ever filed an application to register the mark or portions of the mark or a composite of the mark with the United States Patent and Trademark Office?

☐ YES ☒ NO

If you answered "YES", please provide the full particulars including the filing date, serial number and status of each application. If an application was finally refused registration or has otherwise not resulted in registration, please state the reason for this:

11. Please enclose three (3) original, identical specimens showing the mark as actually used.

DECLARATION OF OWNERSHIP

Applicant herewith declares that he/she has read the above and foregoing application and knows the contents thereof and that the facts set out herein are true and correct, that the three specimens of the mark submitted are true and correct, that the applicant is the owner of the mark, and that the mark is in use. Additionally, to knowledge of the person verifying this application, no other person has registered this mark either federally or in this State, or has the right to use this mark in its identical form or in near resemblance as to be likely, when applied to the goods or services of another person, to cause confusion or to cause mistake or to deceive.

Sworn to and subscribed before me

this 21 day of Oct, 2009

Sharon J. Hammer
Notary Public of South Carolina

My Commission Expires: 3/9/16

H. Keith Oliver
Signature

H. Keith Oliver
Name

Sr VP Corporate Operations
Title

(843) 761-9100
Telephone Number

10/21/09
Date

NOTE

THE ACCEPTANCE OF A TRADEMARK OR SERVICE MARK FOR REGISTRATION BY THE OFFICE OF THE SECRETARY OF STATE PROVIDES THE OWNER WITH A RIGHT TO USE SUCH MARK IN THE STATE OF SOUTH CAROLINA ON THE GOODS AND SERVICES IDENTIFIED IN THE REGISTRATION APPLICATION. HOWEVER, THE OFFICE OF THE SECRETARY OF STATE DOES NOT SEARCH OTHER STATE OR FEDERAL REGISTRATIONS, INTERNET DOMAIN NAMES OR OTHER COMMON LAW (UNREGISTERED) USERS, THEREFORE, RIGHTS GRANTED BY THIS REGISTRATION MAY BE AFFECTED OR PREEMPTED BY PRIOR USE OR OTHER REGISTRATION OF THE MARK.

18197

MCNAIR LAW FIRM, P.A.
7 NORTH LAURENS STREET, SUITE 600
GREENVILLE, SC 29601

Bank of America

67-448/539

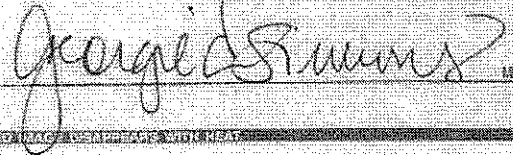
PAY Fifteen and NO/100 Dollars *****

DATE 11-02-09

AMOUNT

TO THE
ORDER OF South Carolina Secretary of State

\$15.00



⑈018197⑈ ⑆053904483⑆ 000733048688⑈

MCNAIR LAW FIRM, P.A.
GREENVILLE, SC 29601

18197

State Service Mark Application filing fee for "VELOCITY Keeping Homes
Ahead of Their Time"

File No. 005423.00002

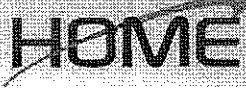


VELOCITY

Keeping Homes Ahead of Their Time

**VELOCITY is HERE –
and ready to
“Future Proof” your world**

VELOCITY, Fiber To The Home from
HOME, is a thousand times faster than DSL
and Cable! Best of all your trusted name in
Telephone, Internet, Cable TV, Wireless and
Security services now provides this incredible
technology! *That's just the beginning.*



HOME

TELEPHONE • INTERNET • CABLE TV • WIRELESS • SECURITY

And Now Your Single-Source for VELOCITY

Customer Service **843-277-7307**
225 Seven Farms Dr. Daniel Island, SC 29492

Customer Service **843-761-9101, 843-471-2200**
579 Stoney Landing Rd. Moncks Corner, SC 29461
2750 Hwy 52, Moncks Corner, SC 29461

www.HomeSC.com

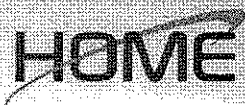


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HOME

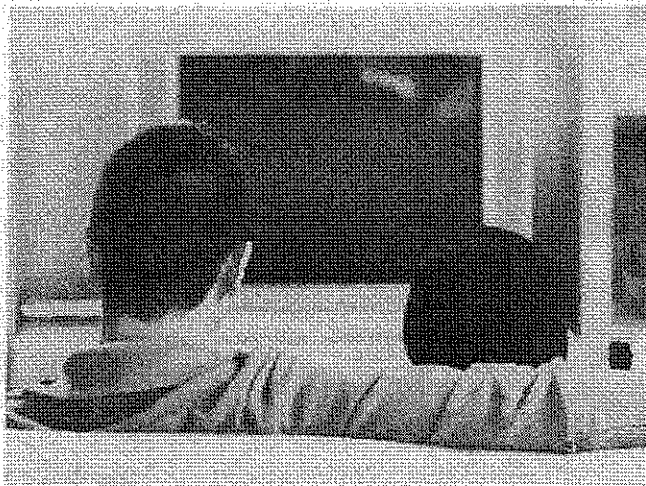
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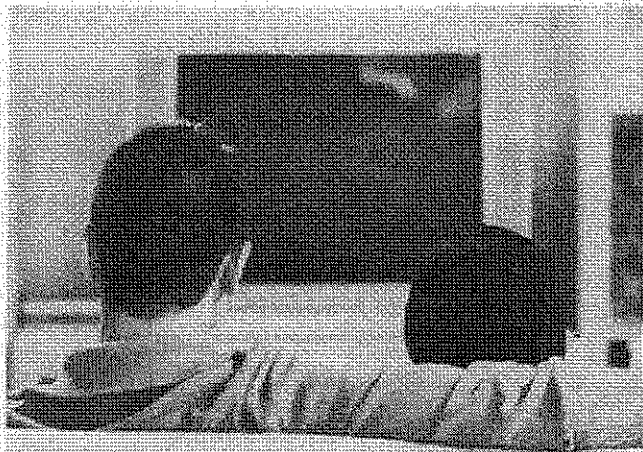
From HOME, Your FTTH Future-Proof Solution

HOME FTTH technologies replace slower broadband technologies to deliver voice, data, and video at speeds that will keep homes far ahead of their time. And for things like the Internet, networking, digital television, HDTV, Home Security, the home office and more.

- Data speeds way beyond that of conventional copper or coax
- Less margin of error
- Works over further distances
- Life span decades beyond conventional technologies

When It Comes To the Future, You're Already HOME

Learn more about **VELOCITY** from HOME. And take your home to the height of value, technology and speed.



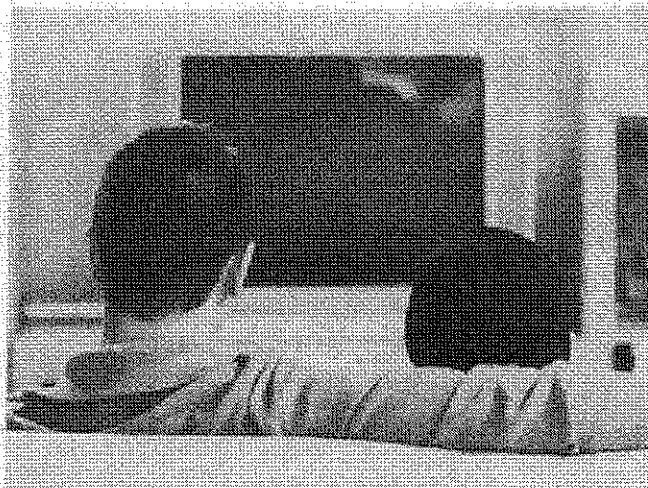
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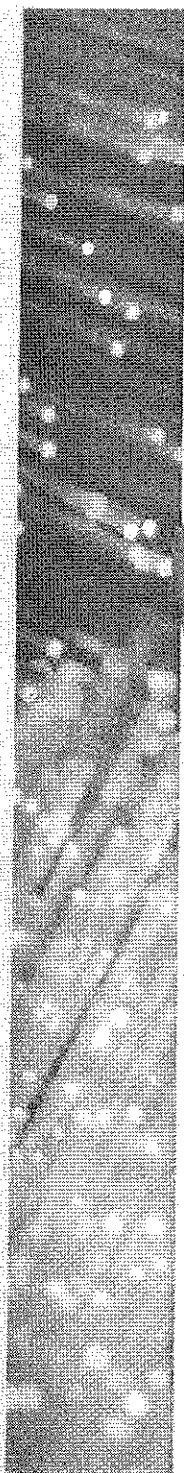
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VELOCITY

Keeping Homes Ahead of Their Time



VELOCITY

Keeping Horses Ahead of Their Time





VELOCITY

Keeping Homes Ahead of Their Time

FTTH - An Important Decision for DEVELOPERS Ahead of Their Time.

Fiber to the Home is becoming not just a neighborhood necessity, but a global one. It's a decision being made by developers worldwide to ensure every project they design becomes "future proof." In fact, according to a recent release by the FTTH Council's annual conference, the number of economies where Fiber to the Home has established a significant and growing market presence has nearly doubled over the past 18 months. To learn more on why FTTH is a decision that will make your developments state-of-the-art, in demand and of lasting value, read this brochure, and/or talk to a HOME Representative today.

VELOCITY
Making Homes Ahead of Their Time

HOME HAS IT ALL

TELEPHONE • INTERNET • CABLE TV • WIRELESS • SECURITY

And Now... One of the Few Providers of Fiber To The Home (FTTH) Technology

The trusted name in Telephone, Internet, Cable TV, Wireless and Security services now provides the ultimate in FTTH Technologies, **VELOCITY**. How is it different from the way many homes get their voice, data, video and more? For starters, **VELOCITY** is a thousand times faster than DSL and Cable Modems!

www.HomeSQ.com

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VELOCITY

Scaling Home's Ahead of Their Time

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Helping Homes Ahead of Their Time

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www.HomeSD.com

**Being Unprepared for the Future
Is Now a Thing of the Past**

*HOME FTTH technologies
replace slower broadband
technologies to deliver voice,
data, and video at speeds that
will keep homes far ahead
of their time.*

HOME

www.Home5G.com

of the Future-Proof Solution

Imagine a home so ahead of its time that no matter what kind of technology came about, it was ready for it. **VELOCITY** actually "future proofs" your home so that it accepts the newest technologies and those still-to-be-developed. That not only

saves time, money and frustration, but also adds value to the home now and far into the future — reports state an additional \$5,000 to \$10,000 per home!



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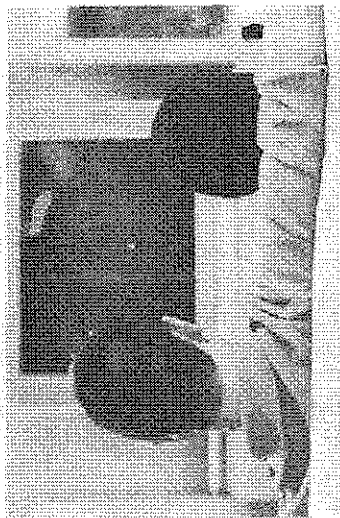
HOME

www.HomeSD.com

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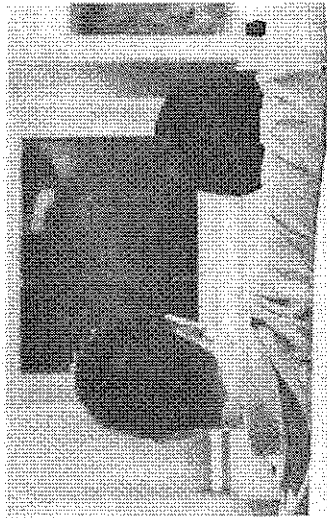
HOME

www.HomeSO.com

of the Future-Proof Solution

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Going the Distance At a Much Faster Rate

- FTTH from HOME offers fantastic levels of bandwidth
- Less margin of error
- Works over further distances
- Longer life span

Improving Life At the Speed of Light

- Optical fiber delivers its data via pulses of light
- Information carrying capacity of FTTH is unlimited
- High bandwidth potential optical fiber can provide phone, TV, Internet, security, and home automation with a single fiber cable
- All at speeds that make other homes, "practically obsolete"



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HOME is your one-source service provider for a full world of communications: voice, data, video and so much more. And, as Neighbors Serving Neighbors, service is fast, efficient, professional and affordable. To learn more about the incredible speeds of **VELOCITY** – or any of the many phone, Internet, cable TV, wireless and security services we provide, contact us today.

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Going the Distance At a Much Faster Rate

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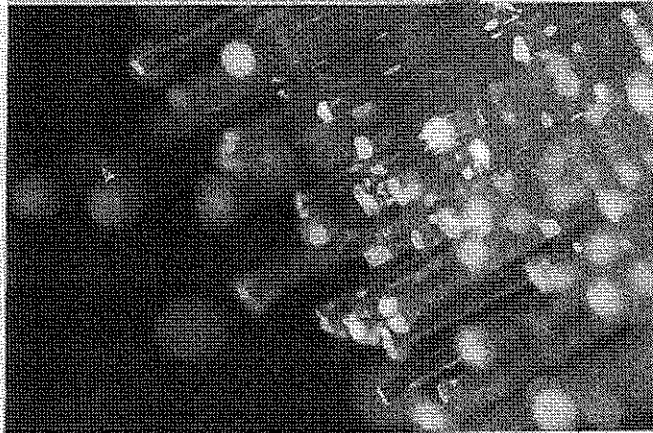
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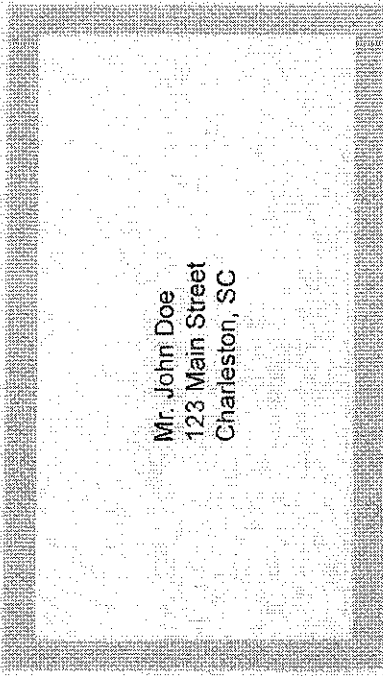
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BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

DOCKET NO. 2009-380-C

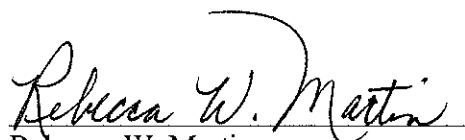
In the Matter of Application of Velocity The Greatest)
Phone Company Ever, Inc. for a Certificate of Public)
Convenience and Necessity to Provide Interexchange)
and Local Exchange Telecommunications Services)
and for Flexible and Alternative Regulation of Local)
and Interexchange Service Offerings)

**CERTIFICATE
OF SERVICE**

This is to certify that I, Rebecca W. Martin, an employee with the McNair Law Firm, P. A., have this date served one (1) copy of the attached Direct Testimony of Denny V. Thompson in the above-referenced matter to the persons named below by causing said copy to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

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Elliott & Elliott, P.A.
721 Olive Street
Columbia, South Carolina 29205

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November 19, 2009

Columbia, South Carolina